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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

12 CR 876 (VSB)

6 PAUL CEGLIA,

7 Defendant.
-----x

8 New York, N.Y.
9 March 24, 2015
10 10:00 a.m.

11 Before:

12 HON. VERNON S. BRODERICK,

13 District Judge

14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
17 Southern District of New York

JANIS ECHENBERG

ALEXANDER WILSON

18 Assistant United States Attorney

MESSINA LAW FIRM, P.C.

19 Attorneys for Defendant

20 BY: GIL D. MESSINA

21 ALSO PRESENT:

Brendan Ceglia

22 Veronica Ceglia

Carmine Ceglia

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1 (Case called)

2 THE COURT: Good morning. Just in terms of
3 housekeeping, Mr. Messina, am I correct that Mr. Fogg is not
4 going to be appearing today?

5 MR. MESSINA: He will not be here today. It was our
6 understanding neither of us could be here. I wanted to be
7 here.

8 THE COURT: Although the proceedings are related to
9 the criminal case, it really doesn't involve the defendant,
10 except for it is the bond that he signed.

11 Let me just make sure that everyone is here.
12 Mr. Carmine Ceglia.

13 MR. CARMINE CEGLIA: Yes.

14 THE COURT: Ms. Veronica Ceglia and Mr. Brendan
15 Ceglia.

16 MR. BRENDAN CEGLIA: Yes.

17 THE COURT: The first thing I want to do is to make
18 sure that each of you have all of the documents that I believe
19 are related to the bond that you signed, as well as the
20 government's proposed forfeiture order that they have provided
21 to me.

22 First, my deputy clerk will hand you first a copy of
23 the appearance bond, which is a bond that you signed at the
24 time, it looks like back in 2012, at various times in October
25 on November.

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1 There is also the agreement to forfeit real property
2 to obtain your son and your brother's release, which my deputy
3 is handing to you.

4 There is also a letter from your son's and your
5 brother's prior attorney, Mr. Patton, requesting that certain
6 of the security, certain of the properties be released because,
7 as I understand it, the bond was \$250,000 and the equity in the
8 properties, at least at that time, my understanding was, was in
9 excess of that.

10 Mr. Patton requested that the equity, that the
11 properties, the number of properties be reduced to match the
12 \$250,000 personal recognizance bond. He so ordered that on
13 September 17. Thereafter, there was a release of lien, I
14 believe that is what this is, which the government prepared,
15 which released certain of those properties as security for the
16 bond.

17 The last document that my deputy is going to hand to
18 you is the bail forfeiture order, which is the proposed order
19 that the government has provided to me for today's proceedings.

20 I know that is a lot to absorb, but do any of you have
21 any initial questions for me? Mr. Ceglia?

22 MR. BRENDAN CEGLIA: What if my son comes back before
23 the court date --

24 THE COURT: If you could just pull that microphone a
25 little closer to you so the court reporter can hear. Go ahead.

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1 MR. BRENDAN CEGLIA: If my son comes back before the
2 May hearing, what?

3 THE COURT: I can't provided you with legal advice,
4 but I will provide you with what I understand the law to be.
5 The law is that, upon a defendant's failure to abide by any of
6 the terms of a bond, that the government can seek forfeiture of
7 that bond whether or not the defendant comes back or not in
8 advance of any court appearance.

9 What I am saying is that the government is moving to
10 forfeit the bond today, and that under the law, that they have
11 a right to do that. I will go through some of the details on
12 the basis of your son's failure to appear at a conference, as
13 well as apparently his cutting off of his ankle bracelet and
14 some other things.

15 His return, although it could have -- again, this
16 isn't up to me, but it is not directly linked to the bond, as I
17 understand it.

18 MS. ECHENBERG: Just to add to that, everything your
19 Honor said is absolutely correct. I would just note that Rule
20 of Criminal Procedure 46(f)(2) and (4) does allow the court, if
21 the sureties were to present the defendant back to custody,
22 there is the ability to set aside the forfeiture. Obviously,
23 to the extent that they can be helpful in bringing their son
24 back to the jurisdiction, there would be some potential result
25 from that.

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1 THE COURT: Yes. What the government has indicated is
2 that your son's returning of itself may not impact necessarily
3 the bond, but your assistance in connection with his return
4 would be something that I could take into consideration. In
5 other words, if the bond is forfeited and we proceed today
6 under the law, there is certain considerations that I can take
7 into account on whether to, in essence, reverse that decision
8 in whole or in part. By whole or part, I mean it could be
9 portion of the \$250,000 or less.

10 There are certain factors that are considered in
11 connection with that and certain cases that sort of outline
12 that. The main case with regard to that is the Gambino case,
13 which is 17 F.3d 572, which sort of sets forth some of the
14 processes by which I would remit the forfeiture.

15 What the government is indicating is that if, under
16 certain circumstances, you're helpful in whatever regard to
17 your son or your brother's return to the jurisdiction, that
18 would be something that I could take into consideration
19 concerning whether or not to remit any forfeiture that already
20 has gone forward.

21 MR. BRENDAN CEGLIA: Thank you.

22 THE COURT: Let me just review briefly the terms of
23 the bond just to make sure that everybody is on the same page.
24 It was a \$250,000 appearance bond co-signed by Carmine Ceglia,
25 Veronica Ceglia, and Brendan Ceglia. It was secured by the

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1 following real property. This listing of properties I am about
2 to give are the listings after the government released certain
3 other properties. I just want to make sure that everybody
4 understands.

5 The first property is 2395 Mersurvey Hill Road in
6 Wellsville.

7 MR. BRENDAN CEGLIA: Mersurvey.

8 THE COURT: The second property is 44 and a half South
9 Brooklyn Avenue in Wellsville.

10 MR. BRENDAN CEGLIA: Yes.

11 THE COURT: The third property is 20 Clark Street in
12 Wellsville.

13 MR. BRENDAN CEGLIA: Yes.

14 THE COURT: The fourth property is 50 South Broadway
15 Avenue in Wellsville.

16 MR. BRENDAN CEGLIA: Brooklyn Avenue.

17 THE COURT: Brooklyn, sorry. Brooklyn Avenue. Well,
18 there is a 40 --

19 MR. BRENDAN CEGLIA: 44 four and a half Brooklyn.

20 THE COURT: Is there a 50 South Broadway.

21 MR. CARMINE CEGLIA: That is also Brooklyn. The
22 44 and a half is a smaller house built on a portion of that.

23 THE COURT: It is 50 South Brooklyn Avenue. I
24 apologize. My mistake.

25 146 Scott Avenue in Wellsville.

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1 MR. BRENDAN CEGLIA: Yes.

2 THE COURT: And 11 East Washington in Hornell.

3 MR. BRENDAN CEGLIA: Hornell.

4 THE COURT: Those are the financial terms of the bond,
5 as I understand it. Does that comport with the government's
6 understanding?

7 MS. ECHENBERG: Yes, your Honor.

8 THE COURT: Does that comport with the bondholders'
9 understanding?

10 MR. BRENDAN CEGLIA: Yes.

11 THE COURT: I scheduled a hearing today after being
12 advised that the defendant had removed his electronic
13 monitoring ankle bracelet and that he was not at home. The
14 defendant failed to respond to numerous attempts by pretrial
15 services to contact him. When I was informed of that, I set a
16 conference for March 10, which I directed that the defendant
17 appear.

18 At that conference on March 10, I was advised of the
19 following: That neither of Mr. Ceglia's attorneys, neither
20 Mr. Fogg or Mr. Messina had heard from him, despite making
21 various attempts to contact him in advance of the March 10
22 conference. Specifically, it is my understanding from that
23 conference that Mr. Fogg attempted to contact the defendant by
24 phone, text, and e-mail, but he did not get a response.

25 Mr. Messina, as I recall, you had e-mailed Mr. Ceglia,

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1 the defendant, and received no response?

2 MR. MESSINA: Correct.

3 THE COURT: Prior to that, neither counsel had heard
4 from or communicated with their client for approximately a
5 week, give or take. I think Mr. Fogg may have been about a
6 week and a half. Mr. Messina, you may have had an e-mail
7 exchange or something like that with him the Thursday before
8 the March 10 appearance.

9 At that time, the government moved to revoke
10 Mr. Ceglia's bail, and I granted that application. After the
11 March 10 proceedings, I also directed that an arrest warrant be
12 issued out of this district.

13 I understand, am I correct, Ms. Echenberg, Mr. Wilson,
14 that an arrest warrant had also been issued out of the Western
15 District of New York?

16 MS. ECHEMBERG: That's correct, your Honor.

17 THE COURT: At the end of the March 10 proceeding, as
18 I set this conference relating to the forfeiture and I directed
19 that the bondholders, the Ceglias, appear today. I appreciate
20 you appearing here personally. I thought it was important that
21 you be here personally so that you could hear and understand
22 exactly what is going on.

23 Mr. Messina, have you had any contact with Mr. Ceglia
24 since March 10?

25 MR. MESSINA: Neither I nor Mr. Fogg have had any

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1 contact whatsoever, your Honor.

2 THE COURT: All right. Thank you.

3 I assume I am correct that Mr. Ceglia has not been
4 apprehended at this time?

5 MS. ECHEBERG: That's correct, your Honor. He
6 remains a fugitive.

7 THE COURT: Under 46(f)(1), I must declare bail
8 forfeited if a condition of the bond has been breached. As I
9 have outlined, Mr. Ceglia failed to respond to pretrial
10 services, which was one of the conditions of his bond. He
11 removed his electronic ankle bracelet from his ankle, which was
12 also a condition of his bond that he should wear that. He left
13 his home and has not returned, which is also a condition of his
14 bond. He failed to appear as directed at the March 10
15 conference, which also is a condition of his bond.

16 As I understand it, he has failed to make contact with
17 his attorneys. And as I understand it, am I correct, I assume
18 that no one from pretrial services either here in New York or
19 up in the Western District of New York have heard from
20 Mr. Ceglia?

21 MS. ECHEBERG: That's correct, your Honor.

22 THE COURT: Therefore, I do find that Mr. Ceglia has
23 willfully violated multiple conditions of his bond and
24 therefore it does appear that forfeiture of the bond would be
25 appropriate.

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1 Now I will hear from the Ceglias concerning the
2 government's application. If you want a few moments to look at
3 what is called the bail forfeiture order, I know this is -- am
4 I correct, Ms. Echenberg and Mr. Wilson, this is the first time
5 the Ceglias are seeing that?

6 MS. ECHENBERG: That's correct.

7 THE COURT: If you want a few moments to look that
8 over to see if you have any questions, you should feel free to
9 do that. If you have any questions at this point, you should
10 feel free to ask me about them.

11 Do you want some time to take a look at that?

12 MR. CARMINE CEGLIA: Actually, we have had a copy of
13 this for a few days. I think it was delivered to your house.

14 THE COURT: Actually, it is a different document.

15 MR. CARMINE CEGLIA: It looks identical.

16 THE COURT: Unfortunately, a lot of court documents do
17 look very similar. I think this one is a little bit different.
18 The initial document I believe that you may have referred would
19 have been the order to show cause which was directing your
20 appearance here today to discuss, in essence, what this order
21 is about. This order, in essence, is about forfeiting the
22 bond, specifically with regard to the pieces of property and
23 also forfeiting with regard to your signature on the bond.

24 MS. ECHENBERG: I just want to clarify, your Honor, as
25 we noted in our application, we are not seeking at this time

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1 the judgment on the properties, just a judgment against the
2 cosigners and the defendant.

3 THE COURT: What Ms. Echenberg has just indicated is
4 that, pursuant to the order, the government isn't at this time
5 seeking to forfeit the property, but the property is, as you
6 know, listed here. That doesn't mean that they are not going
7 to proceed and forfeit that property, it just means they need
8 time to assess and evaluate the value of the property and also
9 assess exactly what the next steps would be.

10 What they are seeking today is to have an order
11 entered forfeiting the bond in connection with the three
12 cosigners, with the three of you, which would, in essence, mean
13 that pursuant to the bond that was signed, the appearance bond
14 that you signed, that you would be responsible for -- again,
15 this is subject to any potential or future forfeiture of the
16 property -- subject to and responsible for the \$250,000, that
17 is the face value of the bond.

18 Do you want just a few moments just to look over the
19 order?

20 MR. BRENDAN CEGLIA: I have one question. She is
21 saying it is going to be a judgment. So should we be keeping
22 the property up or is it --

23 THE COURT: The property is still in your hands. The
24 government has not moved to forfeit it. The property is your
25 responsibility. The judgment itself is, in essence, a default

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1 judgment that will be entered. It will be entered with regard
2 to today -- well, it may not be specifically today, but within
3 a few days -- with regard to the three cosigners, each of you,
4 but not with regard to the property. Okay?

5 MR. BRENDAN CEGLIA: Okay.

6 THE COURT: I would advise, again, with regard to the
7 property, if you do have questions, that you should take the
8 contact information of the government attorneys and speak with
9 them about that. Okay?

10 MR. BRENDAN CEGLIA: Okay. Thank you.

11 THE COURT: Any other questions?

12 MR. CARMINE CEGLIA: I just want to make sure I
13 understand. Certainly, it is a \$250,000 judgment placed
14 against myself and against them each?

15 THE COURT: That's correct.

16 MR. CARMINE CEGLIA: You are basically saying you owe
17 us \$250,000. We don't care how you pay us, you owe us \$250,000
18 right now?

19 THE COURT: That's correct, with one caveat, we don't
20 care how you pay it. The government did --

21 MR. CARMINE CEGLIA: If I was to give you \$250,000
22 right now, the property would be off the table, right? Just as
23 the way I understand it. Ms. Echenberg, maybe you can answer
24 it for me.

25 THE COURT: I think that that is correct.

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1 MR. CARMINE CEGLIA: What about if the property is
2 forfeited and sold and either is below or exceeds \$250,000?

3 THE COURT: If it is below the \$250,000, each of you
4 is responsible for the delta, in other words, the difference.

5 MR. CARMINE CEGLIA: The judgment would then be
6 amended to the amount that was owed, essentially?

7 THE COURT: Correct. The government is only entitled
8 to the amount of the bond, which is \$250,000.

9 MR. CARMINE CEGLIA: I am trying to understand how
10 that process works. It makes sense for me. That is typically
11 the way anybody would do that.

12 THE COURT: To answer the opposite question,
13 obviously, if it turns out that the equity is greater than
14 \$250,000, any amount in excess of that is monies that would be
15 whoever the owners of the property are.

16 MR. CARMINE CEGLIA: Right. Just like I said, I want
17 to make sure -- that is typically the way something like this
18 would work in a judgment for money secured, my property. I
19 want to make sure that it was the same way here essentially.

20 THE COURT: That's my understanding, yes.

21 Any other questions?

22 MR. CARMINE CEGLIA: No.

23 THE COURT: Again, this is an opportunity for you to
24 raise any arguments that you believe are appropriate concerning
25 the forfeiture order and whether or not I should sign that at

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1 this time.

2 MR. BRENDAN CEGLIA: No, that was our agreement.

3 MS. VERONICA CEGLIA: Yes.

4 MR. BRENDAN CEGLIA: We were under that agreement.

5 THE COURT: I know at the time did you sign up in
6 Upstate New York, or were you down here?

7 MR. BRENDAN CEGLIA: We were down here, I believe.

8 MR. CARMINE CEGLIA: I was in the Western District at
9 the time.

10 THE COURT: As Ms. Echenberg mentioned, there is a
11 possibility that in the future, if your son returns and you are
12 helpful in that, that a certain portion of the sum or all of
13 the forfeited amount might be remitted, but there is no
14 guarantee in that. In fact, the law is pretty clear, the law
15 favors forfeiture in these circumstances because there is a
16 reason for a bond being put in place, that is to secure a
17 defendant's appearance in court. Unfortunately that did not
18 occur here, and as a consequence, you're left in the position
19 that you are in.

20 Any other questions?

21 MR. BRENDAN CEGLIA: Now, can I just make a comment
22 other than on the forfeiture?

23 THE COURT: If you want, sure.

24 MR. BRENDAN CEGLIA: Well, you know, it is like, I
25 don't know why he did this, but I feel I have a good idea why

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1 he did it. It's like all along, you know, I know it has been a
2 five-year thing with this lawsuit, and the one lawyer
3 Ms. Echenberg, Mr. Schneider has been interfering. It's like
4 he has never got anything to go his way, and I think this last
5 thing we heard that really was upsetting to Paul was that
6 Lawrence Schneider was getting permission to work with the
7 prosecution on this criminal case, which to me was very unfair.

8 You know, from the beginning, we caught the
9 prosecution. They said that Lawrence Schneider didn't
10 collaborate with them, when in the Buffalo courthouse, I think
11 it was Mr. Arcara, he said that, no, your Honor, I had nothing
12 to do with this. And two of the prosecutors down in this
13 court, wherever he was at the time, said oh, yeah, we had some
14 information from Lawrence Schneider.

15 You know, it is like when Paul heard that there was a
16 good chance of this case being turned around, we were all very
17 happy. Then we get the news they are starting a second grand
18 jury to redo it. Well, at this point, we have no more money to
19 help bail him out. I think he was just afraid for his life
20 that he wasn't going to get a fair shot.

21 THE COURT: Okay.

22 MR. BRENDAN CEGLIA: That is my opinion and, you know,
23 from talking to Paul, I would have coffee with him every
24 morning, and I never saw this coming, you know, but I have a
25 feeling this has a lot to do with his decision.

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1 THE COURT: I'm sorry. Were you done?

2 MR. BRENDAN CEGLIA: Yes.

3 THE COURT: Let me make several things clear. The
4 government is the government and Mr. Zuckerberg's lawyers are
5 lawyers for a witness in the case. To the extent that the
6 government has subpoenaed documents or anything, they have
7 gotten documents from Facebook, Mr. Schneider and any of the
8 lawyers working with him are not part of the government. They
9 represent a witness. I will say that they won't be questioning
10 in any trial here any witnesses. They won't be communicating
11 with me during the trial, except for matters that relate to
12 Facebook and relate to Mr. Zuckerberg and his potential
13 testimony. They are not a party to this litigation.

14 Having said that, there have been issues relating to
15 subpoenas and other things that have been issued to them, so
16 they are a party to this. They are appropriately here to
17 respond to subpoenas that have been issued.

18 In addition, this courtroom is open to the public.
19 That means that members of the public, whether they are
20 attorneys for witnesses or not, can come here and watch
21 proceedings. I understand your sentiments, Mr. Ceglia, but all
22 I can tell you is that it is my job to make sure that this
23 process is fair for your son and fair for the government. I
24 intend to do that whenever he is brought back here.

25 MR. BRENDAN CEGLIA: We have felt that since you have

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1 been brought on the case that, you know, it was more fair for
2 my son. So he was quite happy when you were brought on to the
3 case.

4 When Mr. Carter was on, we didn't feel, you know, then
5 we were getting a fair shot at justice. I mean, I have always
6 believed that in America, you know, like when you go to court,
7 it is a fair thing. But when you find out Mr. Schneider was
8 part of the federal prosecutor's office and they are good old
9 friends and you see judgments that we have seen come up, I have
10 lost a lot of faith in our justice system.

11 It is like it was -- I guess I am gullable enough, I
12 was gullable enough to believe that when Paul had this
13 contract, oh, we are going to court, we had forensic experts,
14 we had this, we had that, you know, it is a legal case. There
15 was no lying or nothing or the paper, the this, we had to go
16 through with forensic experts.

17 Then Paul gets to the gentleman in California -- I
18 can't think of his name right now -- but he was the top CIA
19 forensic expert. Judge Fascia wouldn't even entertain it, but
20 Mr. LaPorte gets up, who works like under whoever it was in
21 California, I can't think of his name right now, Larry Stuart,
22 and he was the head CIA forensic --

23 THE COURT: Secret service.

24 MR. BRENDAN CEGLIA: Yeah, secret service. They just
25 blow his aside, Mr. LaPorte, who was a urine tester. Oh, yes,

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1 this is very credible. I find this very amazing. He didn't
2 want to see our side.

3 THE COURT: Look, let me just address one thing. The
4 civil case, again, I am not involved in that.

5 MR. BRENDAN CEGLIA: Right.

6 THE COURT: It is a separate matter that is being
7 dealt with, I think, currently pending in the Second Circuit.
8 With regard to this case, and this goes with regard to me or
9 Judge Carter or anyone in this courthouse, our job is to make
10 sure that things are fair. That doesn't mean necessarily that
11 you will agree with all of our decisions. That is also the
12 nature of our job. There is always going to be folks that
13 don't agree with us. But in the end, we are here to make sure
14 that both the defense and the government get a fair trial and
15 that your son had an opportunity to present his case in front
16 of 12 jurors that are going to be in this box in this
17 courtroom. Again, the only thing I can say is that what I
18 intend to do going forward. It the reason why I am sitting
19 here today, and I wouldn't be doing this unless I believed in
20 the system.

21 Is there anything else?

22 MR. BRENDAN CEGLIA: No.

23 THE COURT: From the government?

24 MS. ECHENBERG: Not with relation to the forfeiture,
25 your Honor, no.

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1 THE COURT: Mr. Messina?

2 MR. MESSINA: I have nothing with respect to the
3 forfeiture proceeding, your Honor. We do owe the court a
4 letter with regard to how we expect the proceeding to go from
5 here on out. I spoke with Ms. Echenberg before your Honor
6 convened today, and we are going to try to set a conference
7 call with Mr. Fogg, the four of us, today. We can get that
8 letter to you today, your Honor.

9 There have been some developments in the last few
10 days. We received a secret service report which we believe
11 corroborates the reports that we submitted in the civil case.
12 There was also a letter that Mr. Wilson sent to Mr. Fogg
13 yesterday indicating he was enclosing some additional
14 disclosure we haven't seen yet.

15 We do want to discuss that. And as Mr. Ceglia alluded
16 to, there also have been subpoenas issued with attorneys in the
17 case with respect to the grand jury, which we discussed
18 yesterday. Those are the latest developments. We will have
19 that letter to you this afternoon, if that is okay with your
20 Honor.

21 THE COURT: That is fine.

22 MS. ECHENBERG: If I can just respond briefly. I did
23 speak to Mr. Messina before the conference. It remains the
24 government's position, but we will have a conversation
25 obviously, that at this stage, because the defendant remains a

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1 fugitive, while we can certainly be ready for a trial May 4,
2 that does not seem like the best use of the government's
3 resources at this point, especially with motions in limine and
4 other things coming up quite quickly.

5 I would also note that the government intends to
6 supersede with a charge or charges related to the flight, so
7 that may have implications on deadlines as well. When we
8 supersede, we also intend to add factual allegations to the
9 underlying charge related to an additional victim of the fraud,
10 and that is the investors we had referenced in a letter last
11 week. Approximately \$650,000, at least, was collected from a
12 variety of investors who believed they were investing in this
13 lawsuit and were given a piece of any return. We intend to
14 supersede to allege fraud on those investors as well.

15 THE COURT: One of the things is that there is a bail
16 note now, since Mr. Ceglia has failed to appear, and that the
17 government intends to proceed with charging him with.

18 Mr. Messina, just for purposes, from my perspective,
19 at the last conference, I did indicate that I wasn't going to
20 move the trial. To the extent I know that the indication was,
21 I believe, in the letter that I received that the defense was
22 considering possibly requesting holding off on any
23 determination of putting the trial off until sometime later in
24 April. I would say that my initial thought on that is I might
25 wait another week or so, but that I would not wait any longer

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1 than that, because both from the government's perspective, the
2 need to prepare the case, but also from the perspective of the
3 defense, you know, should Mr. Ceglia be apprehended and be back
4 in the jurisdiction, I would want to give the defense time to
5 prepare for trial. I think waiting until the end of April
6 would make that more difficult for the defense.

7 Yes, Mr. Messina?

8 MR. MESSINA: I appreciate that, your Honor. Our hope
9 has always been to get this case to trial by May 4. Without
10 the defendant, obviously, that is problematic. The only thing
11 that is imminent right now, this is what I want to discuss with
12 my colleagues this afternoon and Mr. Fogg is we have an April 1
13 deadline for motions in limine, which I think Ms. Echenberg is
14 alluding to the government's resources might be better spent if
15 we waited on that for a period of time.

16 THE COURT: I apologize. Again, I haven't looked at
17 the schedule in particular. I wouldn't have a problem pushing
18 that off a little so that people aren't jammed up by that. But
19 I do think that we are at the end of March, it is not really
20 too much time.

21 MR. MESSINA: Understood. I will tell you that our
22 hope and our expectation is that Mr. Ceglia will be here. I
23 have no reason to know that. As I said, we have had no
24 contact. I hope that if there is an ability to get him here
25 voluntarily, if his family can prevail upon him, we want him

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1 here. We think he has a good defense and we are prepared to go
2 to trial.

3 MR. BRENDAN CEGLIA: Your Honor?

4 THE COURT: Yes.

5 MR. BRENDAN CEGLIA: I think a couple lawyers
6 expressed to us that if we can get ahold of Paul and tell him
7 to come back, but we feel our hands are tied, because I don't
8 believe Paul will call me because he knows I would get in
9 trouble. The marshals already told me, if you talk to him, I
10 am an accessory, something or other. It's like we are trying
11 to figure out a way to get ahold of him.

12 MS. VERONICA CEGLIA: We don't know where he is.

13 MR. BRENDAN CEGLIA: It's like I am sure he won't call
14 me while I am in the United States. He knows we have good
15 friends in Ireland. I thought if he found out I was in
16 Ireland, he might get ahold of me where I can at least talk to
17 him and try to talk to him. But it's like I understand the
18 marshals are doing their job, what they have to do, but it's
19 like, if I say, well, we are going to fly to Ireland to our
20 friend's house, they are going to --

21 MS. VERONICA CEGLIA: Be on their footsteps.

22 MR. BRENDAN CEGLIA: -- it's like we know where he is.
23 They already told me I am going to be subject to arrest,
24 because in their mind, they just think I know where he is, and
25 I don't.

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1 I mean, I guess what I would like to know is, if my
2 wife and I go to Ireland to try to reach him --

3 MS. VERONICA CEGLIA: Would we be followed by a
4 barrage?

5 MR. BRENDAN CEGLIA: -- are we going to be charged
6 with something for -- I mean, I don't know where he is. I
7 doubt that he is in Ireland, but he knows where we go in
8 Ireland. He knows friends we have had for life. Would this be
9 breaking the law if we went to Ireland to try to reach him?

10 THE COURT: Again, I can't give you legal advice about
11 that.

12 MR. BRENDAN CEGLIA: Yeah.

13 THE COURT: The issue that you are talking about is
14 whether you are assisting your son in some way in his flight.
15 Obviously there are cases where family members, usually it is
16 family members, do help in having their family member returned.
17 So what I would suggest is that you speak with Mr. Messina and
18 Mr. Fogg and arrange that.

19 With regard to your travel to Ireland, I can't, again,
20 give you any advice about that. There may be, besides actually
21 speaking directly to your son, there may be other ways that you
22 could assist the government. Let me say this, obviously at
23 least the most productive thing to happen is for Mr. Ceglia,
24 for your son, to return on his own.

25 You are right, the marshals are doing their job, and

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1 it is their job to find him. They will do everything they can
2 within the law to do that.

3 MR. BRENDAN CEGLIA: Right.

4 THE COURT: But that also entails him being
5 rearrested, wherever that may be.

6 MR. BRENDAN CEGLIA: Right.

7 THE COURT: To the extent that your son may be
8 traveling with his family, that is something that I don't think
9 his family needs to necessarily witness.

10 MR. BRENDAN CEGLIA: Right.

11 THE COURT: Again, I can't give you any advice about
12 that. I think you should be in touch with the prosecutors and
13 if you want to, again, this is up to you through either with
14 Mr. Messina and Mr. Fogg's assistance or not, to find out what
15 assistance you could be, if at all. That would be my only
16 suggestion.

17 MR. BRENDAN CEGLIA: Thank you.

18 THE COURT: Is there anything else?

19 Let me say this with regard to the bail forfeiture
20 order. In light of the proceedings here today, I am going to
21 sign that. Again, it doesn't relate to forfeiting the pieces
22 of real estate, the property, but that is something that in the
23 future is something that is likely to happen.

24 In other words, this doesn't mean that that property
25 is still not subject to being forfeited, but it does mean,

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1 though, that the bond with regard to each of you, there is
2 going to be forfeiture with regard to that and a subsequent
3 judgment that will be entered.

4 MR. BRENDAN CEGLIA: Thank you.

5 THE COURT: Just some housekeeping matters. Mr. Fogg
6 had suggested in a letter, Ms. Echenberg, Mr. Wilson, that the
7 defense would create a wall, whatever that may be. I will
8 leave that to, if you are in agreement, you and the defense,
9 with regard to what I will call the Facebook judgments. In
10 other words, that only Mr. Fogg would review those.

11 The initial suggestion was that the government would
12 retain them and that the defense would come, be available to
13 come and look at them there. Does the government have a view
14 with regard to the proposal that the documents only be made
15 available to Mr. Fogg?

16 MS. ECHEBERG: Can we have one moment, your Honor?

17 THE COURT: Yes. There is a letter I just got that my
18 deputy clerk is passing out to the government and to
19 Mr. Messina. What I will say is that it does relate to the
20 issues that the government and Mr. Messina were just
21 discussing.

22 Why don't we do this. You guys should still have your
23 conference call, because I am not sure that this has been fully
24 vetted, so to speak, in light of our conversation here today.
25 Why don't you have your conference call and then would you be

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1 able to provide me with a joint status update by the end of the
2 week?

3 MR. MESSINA: Absolutely, your Honor. I don't think
4 that is a problem. I spoke to Mr. Fogg this morning. I didn't
5 know that this letter was going to be coming in before the
6 hearing.

7 THE COURT: I imagine that it was a surprise to
8 everybody.

9 MS. ECHEBERG: In relation to your question, I think
10 it really is all bound up in the trial and deadlines related to
11 that. If we can give you our opinion on that either jointly or
12 our own opinion at the end of the week as well.

13 THE COURT: That would be great. I appreciate if you
14 could work together. If you can't, I'll take separate letters,
15 that is fine.

16 MS. ECHEBERG: We will do our best.

17 THE COURT: The other thing I will mention, in your
18 consideration of this in going forward, is that this is a
19 criminal case. The defendant has a right to be present at
20 various points in the process. As you're considering things
21 that we can accomplish, consider that. I haven't looked at the
22 law in connection with that. Obviously that relates to court
23 appearances. Some of the things we are talking about are sort
24 of behind the scenes legal matters. I want the parties to be
25 cognizant of that when they are thinking about going forward.

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1 That is fine. Ms. Echenberg, do you want more time to
2 think about the documents?

3 MS. ECHENBERG: Yes. That is, in part, because the
4 proposal is essentially that only Mr. Fogg would look at them
5 because they only relate to the criminal case. But to the
6 extent that we are going to adjourn the trial and we are going
7 to adjourn all the related deadlines, there doesn't seem to be
8 that need.

9 THE COURT: No, that is fine. Although what I will
10 say is, then neither party will get the documents. In other
11 words, they will remain in Facebook's hands.

12 MS. ECHENBERG: Understood. We want to consider that
13 with whatever proposal Mr. Fogg has, and hopefully we can make
14 a proposal that encompasses all of it.

15 THE COURT: That sounds fine. I think in connection
16 with that, again, as you are considering whether the proposal
17 of having Mr. Fogg review it, if you consider if that is
18 something that the government is amenable to, obviously
19 consider what the procedures might be with regard to that and
20 whether or not you want to document that in some way so that
21 everybody is on the same page with regard to that.

22 Mr. Messina, one additional question, and it relates
23 to -- again, I don't want to discuss the substance of the
24 documents, but it relates to the crime fraud exception and the
25 three documents that were still outstanding.

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1 Do you have any specific objections with regard to
2 those?

3 MR. MESSINA: Your Honor, I think two of the three
4 have been resolved.

5 THE COURT: Correct. There were typos.

6 MR. MESSINA: The other was a stack.

7 THE COURT: Correct.

8 MR. MESSINA: I have not gone through them line by
9 line. I will go blind if I do that. They are barely legible
10 as it is. My expectation is I will not have a
11 document-by-document objection and I will get a letter out to
12 your Honor today indicating that I don't object.

13 THE COURT: That is fine. Obviously that just tees up
14 the issue. It is still going to await the parties'
15 conversation with regard to the documents and what the parties
16 want to do as well as the timing of the trial.

17 Is there anything else that we need to deal with
18 today? From the government?

19 MS. ECHENBERG: No, your Honor.

20 THE COURT: Mr. Messina?

21 MR. MESSINA: No, your Honor.

22 THE COURT: Any additional questions, Mr. Ceglia,
23 Ms. Ceglia?

24 MR. BRENDAN CEGLIA: No.

25 MR. CARMINE CEGLIA: No.

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1 THE COURT: Again, the only thing I would say to you
2 is that the best way to learn to be advised on what the
3 contours might be concerning what assistance you might be able
4 to provide is to speak to the government. Obviously you can
5 communicate with Mr. Fogg and Mr. Messina and they can help you
6 sort of parse through and understand various things.
7 Obviously, they represent your son in this matter.

8 MR. BRENDAN CEGLIA: Right.

9 THE COURT: They don't represent you.

10 MR. BRENDAN CEGLIA: No.

11 THE COURT: If there is nothing else, then we will
12 stand adjourned.

13 MS. ECHENBERG: Thank you, your Honor.

14 MR. MESSINA: Thank you, your Honor.

15 (Adjourned)

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